

E-Filed on 05/25/07

1 **DIAMOND MCCARTHY LLP**

2 909 Fannin, Suite 1500  
 Houston, Texas 77010  
 Telephone (713) 333-5100  
 Facsimile (713) 333-5199

3 Allan B. Diamond, TX State Bar No. 05801800  
 Email: [adiamond@diamondmccarthy.com](mailto:adiamond@diamondmccarthy.com)  
 Eric D. Madden, TX State Bar No. 24013079  
 Email: [emadden@diamondmccarthy.com](mailto:emadden@diamondmccarthy.com)

4 Special Litigation Counsel for USACM Liquidating Trust

5 **LEWIS AND ROCA LLP**

6 3993 Howard Hughes Parkway, Suite 600  
 Las Vegas, NV 89169-5996  
 Telephone (702) 949-8320  
 Facsimile (702) 949-8321

7 Susan M. Freeman, AZ State Bar No. 004199  
 Email: [sfreeman@lrlaw.com](mailto:sfreeman@lrlaw.com)  
 Rob Charles, NV State Bar No. 006593  
 Email: [rcharles@lrlaw.com](mailto:rcharles@lrlaw.com)

8 Counsel for USACM Liquidating Trust

9 **UNITED STATES BANKRUPTCY COURT**  
 10 **DISTRICT OF NEVADA**

11 In re:

12 USA COMMERCIAL MORTGAGE  
 13 COMPANY,

14 USA CAPITAL REALTY ADVISORS,  
 15 LLC,

16 USA CAPITAL DIVERSIFIED TRUST  
 17 DEED FUND, LLC,

18 USA CAPITAL FIRST TRUST DEED  
 19 FUND, LLC,

20 USA SECURITIES, LLC, Debtors.

21 **Affects:**

22  All Debtors  
 23  USA Commercial Mortgage Company  
 24  USA Capital Realty Advisors, LLC  
 25  USA Capital Diversified Trust Deed Fund, LLC  
 26  USA Capital First Trust Deed Fund, LLC  
 27  USA Securities, LLC

28 Case No. BK-S-06-10725-LBR  
 29 Case No. BK-S-06-10726-LBR  
 30 Case No. BK-S-06-10727-LBR  
 31 Case No. BK-S-06-10728-LBR  
 32 Case No. BK-S-06-10729-LBR

33 **CHAPTER 11**

34 Jointly Administered Under Case No.  
 35 BK-S-06-10725 LBR

36 **MOTION FOR ORDER REQUIRING**  
 37 **SHUTTS & BOWEN, LLP TO**  
 38 **PRODUCE DOCUMENTS AND ONE**  
 39 **OR MORE REPRESENTATIVES**  
 40 **FOR EXAMINATION PURSUANT**  
 41 **TO FEDERAL RULE OF**  
 42 **BANKRUPTCY PROCEDURE 2004**

43 [No hearing required]

44 Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating  
 45 Trust (the “Trust” or “Movant”) hereby moves this Court for an order requiring Shutts &  
 46 Bowen, LLP (“Shutts & Bowen”) to produce documents and one or more representatives,  
 47 as set forth in the subpoena to be issued under Federal Rule of Bankruptcy Procedure

1 9016, to appear for examination at the office of Esquire Deposition Services, 200 E.  
2 Robinson, Suite 425, Orlando, Florida 32801, on a business day no earlier than ten (10)  
3 business days after the filing of this Motion and no later than July 15, 2007, or at such  
4 other mutually agreeable location, date, and time, and continuing from day to day  
5 thereafter until completed.

6  
7 This Motion is further explained in the following Memorandum.  
8

9  
10 **Memorandum**

11 The Trust seeks information concerning various transactions between Shutts &  
12 Bowen and USACM, the other debtors in the above-captioned cases (together with  
13 USACM, the “Debtors”), and the Debtors’ affiliates, subsidiaries, parents, or otherwise  
14 related entities. Shutts & Bowen is one of several title companies that participated in the  
15 documents of loan transactions between the Debtors and their borrowers. The Trust seeks  
16 this information from the title companies to assist in the collection of the assets and the  
17 investigation of the liabilities of the Debtors.

18 In particular, the Trust will seek the following categories of documents from Shutts  
19 & Bowen and other title companies:  
20

21

- 22 • Closing statements from transactions in which Debtors participated;
- 23 • Purchase contracts, amendments, and assignments from these transactions;
- 24 • Deeds of trust from these transactions;
- Documents identifying other escrows relating to the properties at issue;
- Title policies issued in connection with the closing of the transactions in  
which Debtors participated.

25 The requested discovery from Shutts & Bowen is within the scope of examination  
26 permitted under Bankruptcy Rule 2004, which includes:

1 [t]he acts, conduct, or property or . . . the liabilities and financial condition  
2 of the debtor, or . . . any matter which may affect the administration of the  
3 debtor's estate, or to the debtor's right to a discharge. In a . . .  
4 reorganization case under chapter 11 of the Code, . . . the examination may  
5 also relate to the operation of any business and the desirability of its  
continuance, the source of any money or property acquired or to be acquired  
by the debtor for purposes of consummating a plan and the consideration  
given or offered therefore, and any other matter relevant to the case or to the  
formulation of a plan.<sup>1</sup>

6 **Conclusion**  
7

8 Accordingly, the Movant requests that this Court enter the form of order submitted  
9 with this Motion.

10 Dated: May 25, 2007.

11 **DIAMOND MCCARTHY LLP**

12 **LEWIS AND ROCA LLP**

13  
14 By: /s/ Eric D. Madden  
15 Allan B. Diamond, TX 05801800 (pro hac vice)  
William T. Reid, IV, TX 00788817 (pro hac vice)  
Eric D. Madden, TX 24013079 (pro hac vice)  
909 Fannin, Suite 1500  
Houston, Texas 77010  
(713) 333-5100 (telephone)  
(713) 333-5199 (facsimile)

16  
17  
18  
19 *Special Litigation Counsel for*  
20 *USACM Liquidating Trust*

21  
22 By: /s/ Rob Charles  
23 Susan M. Freeman, AZ 4199 (pro hac vice)  
Rob Charles, NV 6593  
3993 Howard Hughes Parkway, Suite 600  
24 Las Vegas, Nevada 89169-5996  
(702) 949-8320 (telephone)  
(702) 949-8321 (facsimile)

25  
26 *Counsel for USACM Liquidating Trust*

---

<sup>1</sup> FED.R. BANKR. P. 2004(b).